

FILED
JAMES BONINI
CLERK

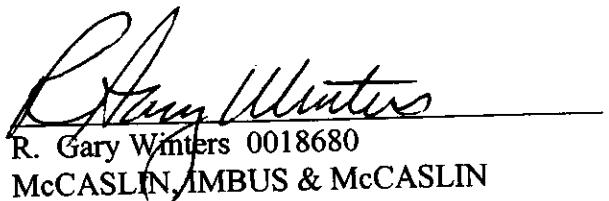
UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

05 MAY 27 PM 2:22

WESTERN DISTRICT OF OHIO
WEST DIVISION CINCINNATI

The Kroger Co., : Case No.: C-1-02 439
: Plaintiff-Appellee : Judge Beckwith
: :
: Malease Foods Corp., formerly : NOTICE OF APPEAL
: known as Malese Foods Corp., :
: Defendant-Appellant :

Notice is hereby given that Malease Foods Corp., defendant in the above named case, hereby appeals to the United States Court of Appeals for the Sixth Circuit from this Court's Judgment on Amended Order of May 2, 2005 remitting the jury's damage award in favor of plaintiff to \$440,000.


R. Gary Winters 0018680
McCASLIN, IMBUS & McCASLIN
Suite 900 Provident Bank Building
632 Vine Street
Cincinnati, OH 45202-2442
(513) 421-4646 Telephone
(513) 421-7929 Facsimile
rgwinters@mimlaw.com

Robert W. Cinque, Esq.
Cinque & Cinque, P. C.
845 Third Avenue, Suite 1400
New York, New York 10022
Telephone #: (212) 759-5515
Facsimile #: (212) 759-7737
CINQUE845@aol.com

Attorneys for Defendant-Appellant

CERTIFICATE OF SERVICE

This is to certify that the foregoing document was mailed this 27 day of
May, 2005, to:

Douglas R. Dennis
FROST BROWN TODD
201 East Fifth Street, Suite 2200
Cincinnati, OH 45202
Attorney for Plaintiff-Appellee


R. Gary Winters 0018680
Attorney for Defendant-Appellant
Suite 900 Provident Building
632 Vine Street
Cincinnati, OH 45202-2442
(513) 421-4646 Telephone
(513) 421-7929 Facsimile
rgarywinters@zoomtown.com